1949

File No. B. Finance/49 (News paper advert)

K

Legal DEPARTMENT

B BRANCH

Subject:— A Bill to amend the Bombay Finance Act, 1932

2. A Bill No XVIII of 1949

Bom. Act No II of 1949

P 37/E,

File No. B. Finance/49 (News paper advert)

Std. Sectt. Slip 24-B

715-B

Legal Department.

A revised draft Bill is sent herewith.

2. Entry 48 in List II relates to "taxes on the sale of goods and on advertisements". Under this entry, it will be competent to the Provincial Legislature to ena a law providing for the levy of a tax on advertisements. The word "advertisement" is not defined in the Governmen of India Act. According to the dictionary meaning it means a public announcement. If the dictionary meaning is accepted, the entry will enable the levy of a tax on all public announcement relating to whatsoever matter. But it will not be possible to give such a wide meaning to the entry; It appears that the "adviertisements" referr to in entry 48 are the advertisements which have some commercial value. The entry "tax on advertisements" does not stand by itself; but is coupled with "tax on the sale of goods". The word "advertisements" will have, therefo to be given a meaning having regard to the collocation of the words "taxes on the sale of goods". Thus interprete taxes on advertisements will mean ta es on such adverti ments as have some commercial values from which some prof or gain is derived i.e. advertisements in connection with any busine ss, trade, calling, profession or employment a other matters which may yield profit or gain. That this is the sense in which the term "advertisement" is used i entry 48 is indicated by the recommedations of the Taxat Enquiry Committee. The draft Bill accordingly contains a definition of "advertisement" in which a restricted me aning is given to "advertisement".

3. The subject-matter of the Bill falls under entries 37 and 38 in List II and entries 1 and 17 List III in the Seventh Schedule to the Government of India Act, 193 The Bill does not require any sanction but requires the Governor's recommendation under section 82(1) (a) and (3 of the said Act. After the Bill is passed it

36/18/6
4/8/1816

necessary to reserve it for the consideration of th Governor General with reference to section 107(2) o the said Act.

4. The Department will no doubt attach the necessary Statement of Objects and Reasons to the Bill.

5. The draft Bill will be shown to the Advocate General before it is published.

Sd/-
20/12

o.c. Additional Secretary to Government.

U.R. to F.D. comfl No. 691- Genfl dated the 20th December 1948.

I.N.P.
5/6
A.C.

Legal Department.

To give effect to the proposal in this file the followir clause may be inserted as clause 3 in the draft Bill sent to t Finance Department with this Department U.R.No.691-Confl.4 da the 20th December 1948 and clause 3 thereof may be renumbered clause 4:-

"Amendment of Section 14 of Bom.II of 1932. Bom. XV of 1865. Bom. III of 1936. Bom. XLVII of 1947.

3. In section 14 of the said Act, Schedule II, in Article 21 for the ds and figures "the Parsee Marriage a Divorce Act, 1865" the words and f rds "the Parsi Marriage and Divorce 1936 of the Bombay Hindu Divorce Act 1947" shall be substituted ."

Sd/- 7/1

Additional Secretary to Government.

L.R. to F.D. No. 12 confl, dated 7th January 1949.

K.N.P.
6/6
A.C.

A revised dfeft Bill is sent herewith.

Clause 1. It is not necessary to change the date from "1st April" to "31st March ".

Clause 7. The clause has been revised so as to include in the Stamp Act the definition of "clearance list". Other necessary definitions have also been included.

Clause 9. - At the Cabinet meeting the suggestion-n made by H. M. (Law) for amendment of paragraph (ix) of clause (a) of the new section 31 was accepted. The parngraph has been suitably amended accodingly.

2.The subject matter of the Bill falls under entires 2, 37, 38, 42, 46, 46B and 51 in List II and dngfi entries 1, 13, 17and 31 in List III in the Sevi Schedule to the Government of India Act, 1935. The Bill does not reqbire any sanction but requires the Governor's recommendation under section 82(1)(a) and (of the said Act. After the Bill is passed, it wi have to be reserved for the consideration of the Gover Gener al with refetence to section 107(2) of the said Act.

3. The draft Statement of Object and Reasons at pages 27 to 30 ante as slightly amended is in order.

Sd/-
14/2

O.C., Additional Secretary to Government,

U.R. to F.D. No. 106 Confl., dated the 14th Februar;

K.N.P.
5/6
A.C.

9

Immediate

No. 2986
Legal Departme..
Bombay Castle. 16th Marc..

From

J.R.Dhurandhar, Esquire, O.B.E.,
Additional Secretary to the Governments of Bombay,
Legal Department.

To

The Private Secretary to the Governor of Bombay.

Subject:- The Bombay Finance (Amendment) ..Bill, 1949.

Sir,

With rference to section 75 of the Government of India Act, 1935, I am directed to foward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Finance (Amendment) Bill, 1949, whiche was read for the third time abd passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 8th March 1949 and on the 11th March 1949, respectively

2. The subject-matter of the Bill falls under entries 1, 37,38,42,48,48B and 51 in List II and entires 1,13,17 and 31 in List III in the Seventh Schedule to the Government of India Act, 1935, The subject-matter of Part IV of the Bombay Finance of Ac 1932, falls inter alia under entry 13 in List III. The provis of clause 7 of the Bill, inasmuch as they seek to amend Part IV, are repugnant to the Provisions of the Indian Stamp Act, 1899, which is an existing law relating to entry 13 in List III. It is therefore, necessary to reserve the Bill for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

3. I also forwarded herewith six copies of each of the

1. Bill as introduced in the Bombay Ligislative Assembly with the Statement of Objects and Reasons.	Items Nos. 1 to 3 and two copies of ite No. 4 of the papers noted the margin.
2. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.	
3. Bill as read for the third time and passed by the Bombay Legislative Council.	
4. Extracts from the proceedings of the Bombay Legislatice Assembly dated 8th March 1949 and of the Bombay Legislative Council dated 11the March 1949.	Bill was no referred t

Select Committee.

4. It is requested that His Excellency the Governor-General may be moved to give his assent to the Bill before the 1st day of April 1949 and to convey the assent by telegram as the new Act must come into force on that date and also to communicate the date on which the assent is given.

Yours faithfully,

Sd/-
16/3

Additional Secretary to Bombay Govt

Through

The Secretary to the Government of Bombay,
Finance Department

K.N.P.
6/6

L.C.

No. P.S.G. 889

FROM

L.M. Nadkarni, Esquire, I.C.S.

THE PRIVATE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature Department,
Council Hall, Bombay 1

GOVERNMENT HOUSE

BOMBAY ~~BANDRA(EXTD.~~ March 22nd 1949.

Subject:- The Bombay Finance (Amendment) Bill, 1949.

Sir,

With reference to the Bombay Finance (Amendment) Bill, 1949, which was passed by the Bombay Finance Legislative Assembly and the Bombay Legislative Council on March 8, 1949 and March 11, 1949, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as the provisions of the Bill are repugnant to the provisions of the Indian Stamp Act. 1899, which is an existing law relating to entry 13 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor-General.

Yours faithfully.

Sd/. L.M. Nadkarni,
Private Secretary to the Governor.

No. PSG. 881

Government House, Bombay March 22nd 1949.

Copy forwarded with compliments for information to -

1) The Secretary to Government Legal Department, with reference to his letter No. 2985 of March 16, 1949,
2) The Secretary to Government Finance Department, with reference to his endorsement No. 9326-S.T. 14372 of March 17, 1949.

By order of the Governor of Bombay.

Sd/-

Private Secretary to the Governor.

K.N.P.
5/6
4.C.

No. P.S.G.- 1047

From

L.M. Nadkarni, Esquire, I.C.S.
PRIVATE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Additional Secretary to the Government of Bombay
Legal Department.

Government House,

Bombay, April 6, 1949

Subject : The Bombay Finance (Amendment) Bill, 1949 .

.....

Sir,

In continuation of my letter No. P.S.G.- 966, dated March 31, 1949, I am to forward herewith the authentic copy of the Bombay Finance (Amendment) Bill, 1949 with His Excellency the Governor-General's assent signified thereon.

2. In returning the authentic copy of the Bill, the Government of India have intimated that they regard the proposed levy of duty on electricity, other than on electric lights and fans, consumed for industrial purposes, as undesirable. Pending consideration of the general question of the tax structure of the Centre and the Provinces, with particular reference to the proposal for centralisation of sale tax on specified items, His Excellency the Governor-General has agreed to assent to the Bill, but the Government of India reserve the right to re-open the matter at an appropriate stage in consultation with the Provincial Government.

Yours faithfully,

Sd/-

Private Secretary to the Governor

of Bombay.

5760
7-4-49

Submitted with pps for information.

2) Attention is invited to para too of F.S.G.'s letter at page 41 ante.

3) Date of ament is the same as published.

A.S.S.

Sd/-
7/9

Para 2 overleaf mat be shown ~~in~~ U.O. to F.D. presumbly F.S.G. may have sent copy of this letter to F.D.

S.A.S.

Sd/-
7/4

S.A.S.

Sd/-
7/4

Addl. Secy.

for information

Sd/- J.R.Dhurandhar
8/4

Mjr/12/

& Co.

Bills.
A Bill to amend the Bombay Finance Act, 1932

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 2215

Bombay Castle, 24th Feburary 1949.

RESOLUTION:- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette, dated the 24th Feburary 1949, as Bill No. XVIII of 1949.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette., on the 26th February 1949.

3. The dates of the various publication should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,

Sd/- S.L.Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay*with the Bill and the Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Bombay Legislature Department for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department and 100 copies for the use of the Finance Department,

The Finance Department,
*The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of publicity, Bombay,
The Enquiry Officer for the Secretariat Bombay.
} With A copy of the Bill and S.O.R.

*With five extra copies of the Bill

K.H.P.
6/6
4.C.

Publication of the Bombay Finance (Amendment) Act, 1949.

GOVERNMENT OF BOMBAY.

Legal Department.

Resolution No. 3498

Bombay Castle, 31st March 1949.

Letter to the Private Secretary to the Governor No. 2986, dated the 16th March 1949.

Letter from the Private Secretary to the Governor, No. P.S.G. 966, dated the 21st March 1949.

RESOLUTION - The law should be published as Bombay Act No. II of 1949, in the Bombay Government Gazette, dated the 31st March 1949.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. 1 copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay,

Sd/- B.L.CHAUDHARI,

Assistant Secretary to Government.

To

The Manager Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department).

The Finance Department,
*The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay
The Enquiry Officer for the Secretariat, Bombay,

} with a copy of the Act.

*With five extra copies of the Act.

K.M.P.
6/6
4.C.

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XVIII OF 1949.

A Bill to amend the Bombay Finance Act, 1932.

Bom. II of 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1949.

(*2*) It shall come into force on the 1st day of April 1949.

Bom. II of 1932.

Amendment of long title and preamble of Bom. II of 1932.

2. In the long title and preamble of the Bombay Finance Act, 1932 (hereinafter called the said Act),—

(*1*) the words " for the purpose of lights and fans " shall be deleted ; and

(*2*) after the words " urban areas " the words ", to provide for the levy of a tax on advertisements in newspapers " shall be inserted.

Amendment of section 5 of Bom. II of 1932.

3. In section 5 of the said Act,—

(*1*) the words " for the purpose of lights and fans " shall be deleted ; and

(*2*) in the proviso, the words " industrial undertaking " shall be deleted.

Amendment of First Schedule to Part II of Bom. II of 1932.

4. In the First Schedule to Part II of the said Act, the following shall be added at the end, namely :—

" *For any other purpose.*	
For every two units of energy or fraction thereof consumed for any purpose other than lights and fans.	½ anna."

Amendment of Second Schedule to Part II of Bom. II of 1932.

5. In the Second Schedule to Part II of the said Act,—

(*1*) entry (5) shall be deleted; and

(*2*) the *Explanation* shall be deleted.

Amendment of section 14 of Bom. II of 1932.

6. In section 14 of the said Act, in Schedule II, in Article 21, for the words and figures "the Parsee Marriage and Divorce Act, 1865" the words and figures "the Parsi Marriage and Divorce Act, 1936, or the Bombay Hindu Divorce Act, 1947" shall be substituted. XV of 1865. III of 1936. Bom. XXII of 1947.

Amendment of section 15 of Bom. II of 1932.

7. In section 15 of the said Act,—

(*1*) after the words "following amendments shall be made, namely:—", the following sub-section shall be inserted, namely:—

Amendment of section 2 of Act II of 1899.

"(AI) In section 2,—

(*a*) after the words "in the subject or context—" the following clause shall be inserted, namely:—

"(A1) 'association' means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities;";

(*b*) after clause (7), the following clause shall be inserted, namely:—

"(8) 'clearance list' means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by-laws of the association:

Provided that no instrument shall for the purposes of this Act, be deemed to be a clearance list, unless it contains the following declaration signed by the person dealing in such transactions or on his behalf by a properly constituted attorney, namely:—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, and that it includes all the transactions required to be submitted to the clearing house in accordance with the rules/by-laws of the association. I/We further declare that no transaction relating to the purchase or sale on my/our own behalf or on behalf of a principal for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Indian Stamp Act, 1899, in its application to the Province of Bombay, as the case may be, is omitted."; II of 1899.

(*c*) after clause (12A), the following clause shall be inserted, namely:—

"(12B) 'Government securities' means a Government security as defined in the Indian Securities Act, 1920;"; X of 1920.

(2) After sub-section (4), the following sub-section shall be inserted, namely :—

"(4A) After section 62, the following section shall be inserted, namely :— Insertion of new section 62A in Act II of 1899.

"62A. Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both." ; and Penalty for making false declaration on clearance list.

(3) In sub-section (5),—

(a) in clause (c),—

(i) in Article 5 relating to "Agreement or Memorandum of an Agreement",

(A) after entry (bb), the following entry shall be inserted, namely :—

"(bc) if relating to the purchase or sale of bullion or specie ;	Two annas for every Rs. 2,500 or part thereof of the value of the bullion or specie at the time of its purchase or sale, as the case may be." ;

(B) in entry (a) under "Exemptions", after the word, brackets and letters "entry (bb)" the words, brackets and letters "or entry (bc)" shall be inserted ;

(C) in entry (d) under "Exemptions", for the words, figures and letter "an entry relating to which is required to be made in a clearance list described in Article 20A" the words, figures and letters "or of cotton, or of bullion or specie, an entry relating to which is required to be made in a clearance list described in Article 20A, 20B or 20C, as the case may be" shall be substituted ;

(ii) in Article 43 relating to "Note or Memorandum sent by a Broker or Agent to his principal",—

(A) after entry (aa), the following entry shall be inserted, namely :—

"(ab) of bullion or specie ;	Two annas for every Rs. 2,500 or part thereof of the value of the bullion or specie at the time of its purchase or sale, as the case may be." ;

(B) after entry (1) under "Exemptions", the following entry shall be inserted, namely :—

"(1A) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of bullion or specie on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20C.";

b) in clause (*dd*),—

(i) for the words "the following Article" the words "the following Articles" shall be substituted ;

(ii) the Explanations below Articles 20A and 20B shall be deleted ;

(iii) after Article 20B the following Article shall be inserted, namely :—

"20C. Clearance list relating to the transaction for the purchase or sale of bullion or specie submitted to the clearing house of a Bullion Association ;	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the value of bullion or specie calculated at the maling up price fixed in accordance with the rules made by the Bullion Association."

Amendment of section 22 of Bom. II of 1932.

8. In section 22 of the said Act,—

(*1*) for the figure and words "7 per cent. of the annual letting value of such buildings or lands" the words "such rate not exceeding seven per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted ; and

(*2*) in the first proviso, for the words and figures "at the rate of 3½ per cent. of the annual letting value" the words "at such rate not exceeding three and half per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted.

Insertion of new Part VII in Bom. II of 1932.

9. Part VII and sections 30 and 31 of the said Act shall be renumbered as Part VIII and sections 41 and 42, respectively, and after Part VI the following new Part shall be inserted, namely :—

"PART VII.

Newspaper Advertisements Tax.

30. This Part extends to the whole of the Province of Bombay. Extent of Part VII.

31. In this Part, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "advertisement" means a public notice or announcement in a newspaper, whether by means of written matter or illustration, in connection with any business, trade, industry, calling, profession or employment and shall include any notice or announcement—

(i) declaring the sale, purchase, exchange, lease, hire or any other kind of transfer of any tangible or intangible, moveable or immoveable property or any other kind of property whatsoever,

(ii) containing or inviting offers for the sale, purchase, exchange, lease, hire or any other kind of transfer of any property referred to in sub-clause (*i*),

(iii) containing a prospectus issued by a company allotting or agreeing to allot its shares or debentures with a view to their being offered to the public,

(iv) containing or inviting offers for service, employment, work or labour,

(v) relating to a prize competition as defined in the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, Bom. LIV of 1948.

(vi) relating to the holding of any horse-race as defined in the Bombay Race-courses Licensing Act, 1912, Bom. III of 1912.

(vii) relating to entertainments or amusements,

(viii) containing or inviting offers for the purpose of advancing or obtaining loans,

(ix) of such other kind as may be specified by the Provincial Government by notification in the *Official Gazette* relating to any matter from which profits or gains are expected to accrue to, or be received personally by, or for the personal benefit of, any person on whose behalf the notice or announcement is published in a newspaper;

(*b*) "manager" includes editor, publisher, managing director or any other person in whatever capacity responsible for the publication of a newspaper;

(*c*) "newspaper" means any work, whether periodical or not, containing public news or comments on public news printed and published in the Province of Bombay;

(*d*) "prescribed" means prescribed by rules made under this Part.

Levy of newspaper advertisements tax.

32. There shall from the 1st day of April 1949 be levied and paid to the Government of Bombay a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement published in any newspaper.

Returns.

33. (*1*) Every manager shall furnish to the prescribed authority, before the tenth of each month, a return stating the total receipts from the advertisements published in his newspaper during the preceding month together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of tax.

34. (*1*) On receiving any return under section 33, the prescribed authority shall assess the amount of tax payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the manager requiring him to make payment of the amount assessed, within ten days of the service of the notice.

(*2*) If the manager fails to furnish in due time the return referred to in section 33 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the manager:

Provided that, in the case of a return which the prescribed authority has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the manager a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the manager by post or by delivering it or tendering it to the manager or his agent.

Finality of assessment and recovery of unpaid tax.

35. (*1*) An assessment made in accordance with the provisions of section 34 shall not be questioned in any Court.

(*2*) Any manager aggrieved by an assessment made under section 34 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application the

prescribed appellate authority may cancel or modify the assessment and order the refund to such manager of the whole or part, as the case may be, of any amount paid thereunder.

(3) Any amount recoverable under section 34 may be recovered as an arrear of land revenue.

Exemptions.

36. The Provincial Government may, by notification in the *Official Gazette*, exempt, either totally or partially, any advertisement or class of advertisements from the payment of the tax.

Power to inspect and to take copies of records and accounts of newspapers.

37. (1) The prescribed authority shall have free access at all reasonable times during working hours, to any premises in which a newspaper is published or printed.

(2) Such authority may at any time, with or without notice to the manager, examine the records and accounts kept in respect of any newspaper and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Part or any rules made thereunder.

Information acquired to be confidential.

38. (1) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any premises or from any return submitted under this Part shall be treated as confidential.

(2) If, save as provided in sub-section (3), the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the Provincial Government, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(3) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Part.

Penalties.

39. If any person liable under section 33 to submit a return—

(a) fails, without sufficient cause, to submit the same within the time specified in the said section or in the prescribed manner or submits a false return, or

(b) obstructs any person duly authorised in this behalf in the exercise of his powers and duties under this Part or the rules made thereunder,

shall, on conviction, be punished with fine which may extend to one thousand rupees.

Power to make rules.

40. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the further information to be furnished under section 33, the authority to which and the form in which such return shall be furnished and the manner in which it shall be verified ;

(*b*) the manner in which the amount payable under section 34 shall be assessed ;

(*c*) the appellate authority to whom an application for cancellation or modification of the assessment shall be made under section 35 ;

(*d*) any other matter which is to be or may be prescribed.

(*3*) In making a rule under this section, the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette.*"

STATEMENT OF OBJECTS AND REASONS.

With a view to raising additional revenues, it has been decided to extend the levy of a duty on electrical energy, which is now confined to that consumed for lights and fans, to energy utilised for other purposes as well, but at a much lower rate than for lights and fans, to extend the levy of stamp duties to transactions in the bullion markets, and to impose a tax on advertisements in newspapers. The Bill seeks, accordingly, to incorporate the requisite provisions in the Bombay Finance Act, 1932. It also contains certain other amendments explained below in the note on clauses.

NOTES ON CLAUSES.

Clause 2.—This provides for a suitable alteration of the long title and preamble of the Bombay Finance Act, 1932.

Clauses 3 to 5.—These provide for the extension of the duty on consumption of electrical energy, at present confined to that used for lights and fans, to energy consumed for other purposes, and for the rate of levy of duty on such energy being one-fourth of an anna for every two units.

Clause 6.—This provides for the levy of suitable court fees on plaints or memoranda of appeals under the Bombay Hindu Divorce Act, 1947. The same amount of court fees is levied on plaints or memoranda of appeals under the Indian Divorce Act, 1869 and the Parsi Marriage and Divorce Act, 1936.

Clause 7.—This extends the levy of stamp duties, at present confined, so far as the forward markets are concerned, to transactions in the Stock and Cotton Exchanges, to transactions in the Bullion Markets. It also provides for certain amendments necessary to prevent the evasion of such stamp duties.

Clause 8.—Under section 22 of the Bombay Finance Act, 1932, the tax on urban immovable property is levied at a fixed rate of 7 per cent. (in certain cases 3½ per cent.) of the annual letting value of buildings or lands. The proposed amendment will enable Government to notify any rate not exceeding the present rates, and, subject to this limitation, to adopt different rates for different areas.

Clause 9.—This incorporates a new Part VII in the Bombay Finance Act, 1932, relating to the levy and collection of a tax on advertisements in newspapers.

PART VII.

Section 32—provides for the levy of a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement published in any newspaper.

Section 33—requires every manager of a newspaper to furnish returns showing the total receipts from the advertisements published in his newspaper during the preceding month.

Sections 34 and 35—provide for the assessment and collection of the tax.

Section 36—empowers Government to grant exemptions.

Section 37—empowers the prescribed authority to inspect and to take copies of records and accounts.

Section 38—ensures that all information obtained and extracts or copies taken by a prescribed authority shall be treated as confidential.

Section 39—provides for penalties in case of contravention of certain provisions of this Part.

Section 40—empowers the Provincial Government to make rules under this Part.

(Signed) VAIKUNTH L. MEHTA.

Dated 22nd February 1949.

By order of the Governor of Bombay,

J. R. DHURANDHAR,

Additional Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 23rd February 1949.

v—2

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

BILL No. XVIII OF 1949.

A Bill to amend the Bombay Finance Act, 1932.

(As read for the third time and passed by the Legislative Assembly on the 8th March 1949.)

Bom. II of 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1949.

(*2*) It shall come into force on the 1st day of April 1949.

Amendment of long title and preamble of Bom. II of 1932.

Bom. II of 1932.

2. In the long title and preamble of the Bombay Finance Act, 1932 (hereinafter called the said Act),—

(*1*) the words "for the purpose of lights and fans" shall be deleted; and

(*2*) after the words "urban areas" the words ", to provide for the levy of a tax on advertisements in newspapers" shall be inserted.

Amendment of section 5 of Bom. II of 1932.

3. In section 5 of the said Act,—

(*1*) the words "for the purpose of lights and fans" shall be deleted; and

(*2*) in the proviso, the words "industrial undertaking" shall be deleted.

Amendment of First Schedule to Part II of Bom. II of 1932.

4. In the First Schedule to Part II of the said Act, the following shall be added at the end, namely:—

"*For any other purpose.*	
For every two units of energy or fraction thereof consumed for any purpose other than lights and fans.	½ anna."

Amendment of Second Schedule to Part II of Bom. II of 1932.

5. In the Second Schedule to Part II of the said Act,—

(*1*) entry (5) shall be deleted; and

(*2*) the *Explanation* shall be deleted.

Amendment of section 14 of Bom. II of 1932.

6. In section 14 of the said Act, in Schedule II, in Article 21, for the words and figures "the Parsee Marriage and Divorce Act, 1865" the words and figures "the Parsi Marriage and Divorce Act, 1936, or the Bombay Hindu Divorce Act, 1947" shall be substituted.

XV of 1865. III of 1936. Bom. XX. II of 1947.

Amendment of section 15 of Bom. II of 1932.

7. In section 15 of the said Act,—

(*1*) after the words "following amendments shall be made, namely :—", the following sub-section shall be inserted, namely :—

Amendment of section 2 of Act II of 1899.

"(A1) In section 2,—

(*a*) after the words "in the subject or context—" the following clause shall be inserted, namely :—

"(A1) 'association' means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities;";

(*b*) after clause (7), the following clause shall be inserted, namely :—

"(8) 'clearance list' means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by-laws of the association:

Provided that no instrument shall for the purposes of this Act, be deemed to be a clearance list, unless it contains the following declaration signed by the person dealing in such transactions or on his behalf by a properly constituted attorney, namely :—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, and that it includes all the transactions required to be submitted to the clearing house in accordance with the rules/by-laws of the association. I/We further declare that no transaction relating to the purchase or sale on my/our own behalf or on behalf of a principal for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Indian Stamp Act, 1899, in its application to the Province of Bombay, as the case may be, is omitted.";

II of 1899.

(*c*) after clause (12A), the following clause shall be inserted, namely :—

"(12B) 'Government securities' means a Government security as defined in the Indian Securities Act, 1920;";

X of 1920.

(2) After sub-section (4), the following sub-section shall be inserted, namely :—

"(4A) After section 62, the following section shall be inserted, namely :— Insertion of new section 62A in Act II of 1899.

"62A. Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both." ; and Penalty for making false declaration on clearance list.

(3) In sub-section (5),—

(a) in clause (c),—

(i) in Article 5 relating to "Agreement or Memorandum of an Agreement",

(A) after entry (bb), the following entry shall be inserted, namely :—

"(bc) if relating to the purchase or sale of bullion or specie ;	(a) Two annas for every unit of 2800 tolas of silver or part thereof ; (b) Eight annas for every unit of 250 tolas of gold or part thereof ; (c) Five annas for every unit of 250 sovereigns or part thereof." ;

(B) in entry (a) under "Exemptions", after the word, brackets and letters "entry (bb)" the words, brackets and letters "or entry (bc)" shall be inserted ;

(C) in entry (d) under "Exemptions", for the words, figures and letter "an entry relating to which is required to be made in a clearance list described in Article 20A" the words, figures and letters "or of cotton, or of bullion or specie, an entry relating to which is required to be made in a clearance list described in Article 20A, 20B or 20C, as the case may be" shall be substituted ;

(ii) in Article 43 relating to "Note or Memorandum sent by a Broker or Agent to his principal",—

(A) after entry (aa), the following entry shall be inserted, namely :—

"(ab) of bullion or specie ;	(a) Two annas for every unit of 2800 tolas of silver or part thereof ; (b) Eight annas for every unit of 250 tolas of gold or part thereof ; (c) Five annas for every unit of 250 sovereigns or part thereof." ;

(B) after entry (1) under "Exemptions", the following entry shall be inserted, namely :—

"(1A) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of bullion or specie on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20C.";

(*b*) in clause (*dd*),—

(i) for the words "the following Article" the words "the following Articles" shall be substituted;

(ii) the Explanations below Articles 20A and 20B shall be deleted;

(iii) after Article 20B the following Article shall be inserted, namely :—

"20C. Clearance list relating to the transaction for the purchase or sale of bullion or specie submitted to the clearing house of a Bullion Association;	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof."

Amendment of section 22 of Bom. II of 1932.

8. In section 22 of the said Act,—

(*1*) for the figure and words "7 per cent. of the annual letting value of such buildings or lands" the words "such rate not exceeding seven per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted; and

(*2*) in the first proviso, for the words and figures "at the rate of 3½ per cent. of the annual letting value" the words "at such rate not exceeding three and half per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted.

Insertion of new Part VII in Bom. II of 1932.

9. Part VII and sections 30 and 31 of the said Act shall be renumbered as Part VIII and sections 41 and 42, respectively, and after Part VI the following new Part shall be inserted namely :—

"PART VII.

Newspaper Advertisements Tax.

Extent of Part VII.

30. This Part extends to the whole of the Province of Bombay.

Definitions.

31. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "advertisement" means a public notice or announcement in a newspaper, whether by means of written matter or illustration, in connection with any business, trade, industry, calling, profession or employment and shall include any notice or announcement—

(i) declaring the sale, purchase, exchange, lease, hire or any other kind of transfer of any tangible or intangible, moveable or immoveable property or any other kind of property whatsoever,

(ii) containing or inviting offers for the sale, purchase, exchange, lease, hire or any other kind of transfer of any property referred to in sub-clause (*i*),

(iii) containing a prospectus issued by a company allotting or agreeing to allot its shares or debentures with a view to their being offered to the public,

(iv) containing or inviting offers for service, employment, work or labour,

(v) relating to a prize competition as defined in the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948,

Bom. LIV of 1948.

(vi) relating to the holding of any horse-race as defined in the Bombay Race-courses Licensing Act, 1912,

Bom. III of 1912.

(vii) relating to entertainments or amusements,

(viii) containing or inviting offers for the purpose of advancing or obtaining loans,

(ix) of such other kind as may be specified by the Provincial Government by notification in the *Official Gazette* relating to any matter from which profits or gains are expected to accrue to, or be received personally by, or for the personal benefit of, any person on whose behalf the notice or announcement is published in a newspaper;

(*b*) "manager" includes editor, publisher, managing director or any other person in whatever capacity responsible for the publication of a newspaper;

(*c*) "newspaper" includes any journal, magazine or other periodical publication;

(*d*) "prescribed" means prescribed by rules made under this Part.

Levy of newspaper advertisements tax.

32. There shall from the 1st day of April 1949 be levied and paid to the Government of Bombay a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement appearing in any newspaper published in the Province of Bombay.

Returns.

33. (*1*) Every manager shall furnish to the prescribed authority, before the tenth of each month, a return stating the total receipts from the advertisements appearing in his newspaper during the preceding month together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of tax.

34. (*1*) On receiving any return under section 33, the prescribed authority shall assess the amount of tax payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the manager requiring him to make payment of the amount assessed, within ten days of the service of the notice.

(*2*) If the manager fails to furnish in due time the return referred to in section 33 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the manager:

Provided that, in the case of a return which the prescribed authority has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the manager a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the manager by post or by delivering it or tendering it to the manager or his agent.

Finality of assessment and recovery of unpaid tax.

35. (*1*) An assessment made in accordance with the provisions of section 34 shall not be questioned in any Court.

(*2*) Any manager aggrieved by an assessment made under section 34 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application the

prescribed appellate authority may cancel or modify the assessment and order the refund to such manager of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 34 may be recovered as an arrear of land revenue.

Exemptions.

36. The Provincial Government may, by notification in the *Official Gazette*, exempt, either totally or partially, any advertisement or class of advertisements from the payment of the tax.

Power to inspect and to take copies of records and accounts of newspapers.

37. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any premises in which a newspaper is published or printed.

(*2*) Such authority may at any time, with or without notice to the manager, examine the records and accounts kept in respect of any newspaper and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Part or any rules made thereunder.

Information acquired to be confidential.

38. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any premises or from any return submitted under this Part shall be treated as confidential.

(*2*) If, save as provided in sub-section (*3*), the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the Provincial Government, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Part.

Penalties.

39. If any person liable under section 33 to submit a return—

(*a*) fails, without sufficient cause, to submit the same within the time specified in the said section or in the prescribed manner or submits a false return, or

(*b*) obstructs any person duly authorised in this behalf in the exercise of his powers and duties under this Part or the rules made thereunder,

shall, on conviction, be punished with fine which may extend to one thousand rupees.

Power to make rules.

40. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the further information to be furnished under section 33, the authority to which and the form in which such return shall be furnished and the manner in which it shall be verified ;

(*b*) the manner in which the amount payable under section 34 shall be assessed ;

(*c*) the appellate authority to whom an application for cancellation or modification of the assessment shall be made under section 35 ;

(*d*) any other matter which is to be or may be prescribed.

(*3*) In making a rule under this section, the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*."

STATEMENT OF OBJECTS AND REASONS.

With a view to raising additional revenues, it has been decided to extend the levy of a duty on electrical energy, which is now confined to that consumed for lights and fans, to energy utilised for other purposes as well, but at a much lower rate than for lights and fans, to extend the levy of stamp duties to transactions in the bullion markets, and to impose a tax on advertisements in newspapers. The Bill seeks, accordingly, to incorporate the requisite provisions in the Bombay Finance Act, 1932. It also contains certain other amendments explained below in the note on clauses.

NOTES ON CLAUSES.

Clause 2.—This provides for a suitable alteration of the long title and preamble of the Bombay Finance Act, 1932.

Clauses 3 to 5.—These provide for the extension of the duty on consumption of electrical energy, at present confined to that used for lights and fans, to energy consumed for other purposes, and for the rate of levy of duty on such energy being one-fourth of an anna for every two units.

Clause 6.—This provides for the levy of suitable court fees on plaints or memoranda of appeals under the Bombay Hindu Divorce Act, 1947. The same amount of court fees is levied on plaints or memoranda of appeals under the Indian Divorce Act, 1869 and the Parsi Marriage and Divorce Act, 1936.

Clause 7.—This extends the levy of stamp duties, at present confined, so far as the forward markets are concerned, to transactions in the Stock and Cotton Exchanges, to transactions in the Bullion Markets. It also provides for certain amendments necessary to prevent the evasion of such stamp duties.

Clause 8.—Under section 22 of the Bombay Finance Act, 1932, the tax on urban immovable property is levied at a fixed rate of 7 per cent. (in certain cases 3½ per cent.) of the annual letting value of buildings or lands. The proposed amendment will enable Government to notify any rate not exceeding the present rates, and, subject to this limitation, to adopt different rates for different areas.

Clause 9.—This incorporates a new Part VII in the Bombay Finance Act, 1932, relating to the levy and collection of a tax on advertisements in newspapers.

PART VII.

Section 32—provides for the levy of a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement published in any newspaper.

Section 33—requires every manager of a newspaper to furnish returns showing the total receipts from the advertisements published in his newspaper during the preceding month.

Sections 34 and 35—provide for the assessment and collection of the tax.

Section 36—empowers Government to grant exemptions.

Section 37—empowers the prescribed authority to inspect and to take copies of records and accounts.

Section 38—ensures that all information obtained and extracts or copies taken by a prescribed authority shall be treated as confidential.

Section 39—provides for penalties in case of contravention of certain provisions of this Part.

Section 40—empowers the Provincial Government to make rules under this Part.

VAIKUNTH L. MEHTA.

Dated 22nd February 1949.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XVIII OF 1949.]

(As read for the third time and passed by the Legislative Assembly on the 8th March 1949.

A Bill to amend the Bombay Finance Act, 1932.

[Mr. VAIKUNTH L. MEHTA, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTR

The following Act of the Bombay Legislature having been assented to by the Governor General on the 30th March 1949 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. II OF 1949.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 31st March 1949.)

An Act to amend the Bombay Finance Act, 1932.

Bom. II of 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1949.

(*2*) It shall come into force on the 1st day of April 1949.

Bom II of 1932.

Amendment of long title and preamble of Bom. II of 1932.

2. In the long title and preamble of the Bombay Finance Act, 1932 (hereinafter called the said Act),—

(*1*) the words "for the purpose of lights and fans" shall be deleted; and

(*2*) after the words "urban areas" the words ", to provide for the levy of a tax on advertisements in newspapers" shall be inserted.

Amendment of section 5 of Bom. II of 1932.

3. In section 5 of the said Act,—

(*1*) the words "for the purpose of lights and fans" shall be deleted; and

(*2*) in the proviso, the words "industrial undertaking" shall be deleted.

Amendment of First Schedule to Part II of Bom. II of 1932.

4. In the First Schedule to Part II of the said Act, the following shall be added at the end, namely:—

"For any other purpose.	
For every two units of energy or fraction thereof consumed for any purpose other than lights and fans.	½ anna."

Amendment of Second Schedule to Part II of Bom. II of 1932.

5. In the Second Schedule to Part II of the said Act,—

(*1*) entry (5) shall be deleted; and

(*2*) the *Explanation* shall be deleted.

Amendment of section 14 of Bom. II of 1932.

6. In section 14 of the said Act, in Schedule II, in Article 21, for the words and figures "the Parsee Marriage and Divorce Act, 1865" the words and figures "the Parsi Marriage and Divorce Act, 1936, or the Bombay Hindu Divorce Act, 1947" shall be substituted. XV of 1865. III of 1936. Bom. XX. II of 1947.

Amendment of section 15 of Bom. II of 1932.

7. In section 15 of the said Act,—

(*1*) after the words "following amendments shall be made, namely:—", the following sub-section shall be inserted, namely:—

Amendment of section 2 of Act II of 1899.

"(AI) In section 2,—

(*a*) after the words "in the subject or context—" the following clause shall be inserted, namely:—

"(A1) 'association' means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities;";

(*b*) after clause (7), the following clause shall be inserted, namely:—

"(8) 'clearance list' means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by-laws of the association:

Provided that no instrument shall for the purposes of this Act, be deemed to be a clearance list, unless it contains the following declaration signed by the person dealing in such transactions or on his behalf by a properly constituted attorney, namely:—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, and that it includes all the transactions required to be submitted to the clearing house in accordance with the rules/by-laws of the association. I/We further declare that no transaction relating to the purchase or sale on my/our own behalf or on behalf of a principal for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Indian Stamp Act, 1899, in its application to the Province of Bombay, as the case may be, is omitted.";

II of 1899.

(*c*) after clause (12A), the following clause shall be inserted, namely:—

"(12B) 'Government securities' means a Government security as defined in the Indian Securities Act, 1920;".

X of 1920.

(2) After sub-section (4), the following sub-section shall be inserted, namely :—

"(4A) After section 62, the following section shall be nserted, namely :— Insertion of new section 62A in Act II of 1899.

"62A. Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both."; and Penalty for making false declaration on clearance list.

(3) In sub-section (5),—

(a) in clause (c),—

(i) in Article 5 relating to "Agreement or Memorandum of an Agreement",

(A) after entry (bb), the following entry shall be inserted, namely :—

"(bc) if relating to the purchase or sale of bullion or specie;	(a) Two annas for every unit of 2,800 tolas of silver or part thereof; (b) Eight annas for every unit of 250 tolas of gold or part thereof; (c) Five annas for every unit of 250 sovereigns or part thereof.";

(B) in entry (a) under "Exemptions", after the word, brackets and letters "entry (bb)" the words, brackets and letters "or entry (bc)" shall be inserted;

(C) in entry (d) under "Exemptions.", for the words, figures and letter "an entry relating to which is required to be made in a clearance list described in Article 20A" the words, figures and letters "or of cotton, or of bullion or specie, an entry relating to which is required to be made in a clearance list described in Article 20A, 20B or 20C, as the case may be" shall be substituted;

(ii) in Article 43 relating to "Note or Memorandum sent by a Broker or Agent to his principal",—

(A) after entry (aa), the following entry shall be inserted, namely :—

"(ab) of bullion or specie;	(a) Two annas for every unit of 2,800 tolas of silver or part thereof; (b) Eight annas for every unit of 250 tolas of gold or part thereof; (c) Five annas for every unit of 250 sovereigns or part thereof.";

(B) after entry (1) under "Exemptions", the following entry shall be inserted, namely :—

"(1A) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of bullion or specie on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20C." ;

(*b*) in clause (*dd*),—

(i) for the words "the following Article" the words "the following Articles" shall be substituted ;

(ii) the Explanations below Articles 20A and 20B shall be deleted ;

(iii) after Article 20B the following Article shall be inserted, namely :—

"20C. Clearance list relating to the transaction for the purchase or sale of bullion or specie submitted to the clearing house of a Bullion Association ;	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof."

Amendment of section 22 of Bom. II of 1932.

8. In section 22 of the said Act,—

(*1*) for the figure and words "7 per cent. of the annual letting value of such buildings or lands" the words "such rate not exceeding seven per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted ; and

(*2*) in the first proviso, for the words and figures "at the rate of 3½ per cent. of the annual letting value" the words "at such rate not exceeding three and half per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*" shall be substituted.

Insertion of new Part VII in Bom. II of 1932.

9. Part VII and sections 30 and 31 of the said Act shall be renumbered as Part VIII and sections 41 and 42, respectively, and after Part VI the following new Part shall be inserted, namely :—

PART VII.*

Newspaper Advertisements Tax.

Extent of Part VII.

30. This Part extends to the whole of the Province of Bombay.

Definitions.

31. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "advertisement" means a public notice or announcement in a newspaper, whether by means of written matter or illustration, in connection with any business, trade, industry, calling, profession or employment and shall include any notice or announcement—

(i) declaring the sale, purchase, exchange, lease, hire or any other kind of transfer of any tangible or intangible, moveable or immovable property or any other kind of property whatsoever,

(ii) containing or inviting offers for the sale, purchase, exchange, lease, hire or any other kind of transfer of any property referred to in sub-clause (*i*),

(iii) containing a prospectus issued by a company allotting or agreeing to allot its shares or debentures with a view to their being offered to the public,

(iv) containing or inviting offers for service, employment, work or labour,

(v) relating to a prize competition as defined in the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948,

Bom. LIV of 1948.

(vi) relating to the holding of any horse-race as defined in the Bombay Race-courses Licensing Act, 1912,

Bom. III of 1912.

(vii) relating to entertainments or amusements,

(viii) containing or inviting offers for the purpose of advancing or obtaining loans,

(ix) of such other kind as may be specified by the Provincial Government by notification in the *Official Gazette* relating to any matter from which profits or gains are expected to accrue to, or be received personally by, or for the personal benefit of, any person on whose behalf the notice or announcement is published in a newspaper;

(*b*) "manager" includes editor, publisher, managing director or any other person in whatever capacity responsible for the publication of a newspaper;

(*c*) "newspaper" includes any journal, magazine or other periodical publication;

(*d*) "prescribed" means prescribed by rules made under this Part.

Levy of newspaper advertisements tax.

32. There shall from the 1st day of April 1949 be levied and paid to the Government of Bombay a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement appearing in any newspaper published in the Province of Bombay.

Returns.

33. (*1*) Every manager shall furnish to the prescribed authority, before the tenth of each month, a return stating the total receipts from the advertisements appearing in his newspaper during the preceding month together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of tax.

34. (*1*) On receiving any return under section 33, the prescribed authority shall assess the amount of tax payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the manager requiring him to make payment of the amount assessed, within ten days of the service of the notice.

(*2*) If the manager fails to furnish in due time the return referred to in section 33 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the manager:

Provided that, in the case of a return which the prescribed authority has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the manager a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the manager by post or by delivering it or tendering it to the manager or his agent.

Finality of assessment and recovery of unpaid tax.

35. (*1*) An assessment made in accordance with the provisions of section 34 shall not be questioned in any Court.

(*2*) Any manager aggrieved by an assessment made under section 34 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application the

prescribed appellate authority may cancel or modify the assessment and order the refund to such manager of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 34 may be recovered as an arrear of land revenue.

Exemption

36. The Provincial Government may, by notification in the *Official Gazette*, exempt, either totally or partially, any advertisement or class of advertisements from the payment of the tax.

Power to inspect and to take copies of records and accounts of newspapers.]

37. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any premises in which a newspaper is published or printed.

(*2*) Such authority may at any time, with or without notice to the manager, examine the records and accounts kept in respect of any newspaper and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Part or any rules made thereunder.

Information acquired to be confidential.

38. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any premises or from any return submitted under this Part shall be treated as confidential.

(*2*) If, save as provided in sub-section (*3*), the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the Provincial Government, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Part.

Penalties.

39. If any person liable under section 33 to submit return—

(*a*) fails, without sufficient cause, to submit the same within the time specified in the said section or in the prescribed manner or submits a false return, or

(*b*) obstructs any person duly authorised in this behalf in the exercise of his powers and duties under this Part or the rules made thereunder,

he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Power to make rules.

40. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Part.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(*a*) the further information to be furnished under section 33, the authority to which and the form in which such return shall be furnished and the manner in which it shall be verified;

(*b*) the manner in which the amount payable under section 34 shall be assessed;

(*c*) the appellate authority to whom an application for cancellation or modification of the assessment shall be made under section 35;

(*d*) any other matter which is to be or may be prescribed.

(*3*) In making a rule under this section, the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette.*"

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